

REMARKS

Reconsideration of the above-identified application in view of the following remarks is respectfully requested.

A. Claim Status

Claims 1-7 and 9 are pending and were rejected. As to the merits, claims 1, 4-5, 7, and 9 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Japanese Patent No. JP 2000-069356 A to Noriyuki ("Noriyuki"). [11/19/07 Office Action, p. 4]. Claims 2 and 6 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Noriyuki in view of U.S. Patent No. 7,030,911 B1 to Kubo ("Kubo"). [11/19/07 Office Action, p. 10]. Claim 3 was rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Noriyuki in view of U.S. Patent No. 6,654,062 B1 to Numata, et al. ("Numata"). [11/19/07 Office Action, p. 12].

B. Claims 1, 4-5, 7, and 9 are Not Anticipated by Noriyuki

Applicant respectfully traverses the rejection of claims 1, 4-5, 7, and 9. As set forth in detail below, Noriyuki does not teach, disclose, or suggest each and every element of these claims. In particular, Noriyuki fails to disclose a determination device which determines whether to perform an exposure correction regardless of the magnitude of an exposure error.

Applicant's claim 1 recites:

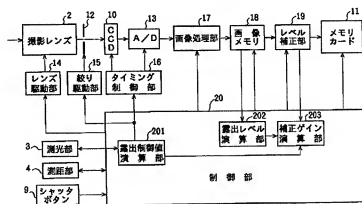
1. An image sensing apparatus comprising:
 - a setting state determination device which determines a setting state of the image sensing apparatus in image sensing;
 - an exposure calculation device which performs photometry for image sensing to calculate an exposure level upon an image sensing preparation instruction by an image sensing preparation instruction member;
 - an exposure level calculation device which calculates an exposure level of an image signal output after image sensing;

an exposure correction calculation device which calculates an exposure error value from the exposure level calculated by said exposure calculation device and the exposure level of a sensed image that is calculated by said exposure level calculation device;

a determination device which determines whether or not to correct the exposure error on the basis of at least one of the setting state of the image sensing apparatus that is obtained by said setting state determination device, an operation state of the image sensing apparatus, and an object brightness state in image sensing, wherein said determination device determines not to correct the exposure error in a case that at least one of the setting state of the image sensing apparatus, the operation state of the image sensing apparatus, and the object brightness state satisfies a predetermined condition, regardless of a magnitude of the exposure error calculated by said exposure correction calculation device; and

an exposure error correction device which performs an exposure correction by using the exposure error calculated by said exposure correction calculation device, when it is determined by said determination device to correct the exposure error.

Noriyuki is directed to an image pick-up device which carries out photoelectric conversion of an image signal. [Noriyuki, ¶0001]. In one aspect, as shown by Fig. 5 below, Noriyuki discloses a block diagram of a digital camera equipped with an image pick-up device capable of reducing errors due to differences between the proper exposure level and the exposure level of a photographed image. [Noriyuki, Abstract]. Noriyuki's image pick-up device is comprised of a level amendment section 19, control section 20, exposure control value operation



[Noriyuki, Fig. 5].

part 201, exposure level operation part 202, and amendment gain operation part 203 [Noriyuki, ¶0034-0035] which the Office Action respectively equates with Applicant's exposure error correction device, setting state determination device and determination device, exposure calculation device, exposure level calculation device, and exposure correction calculation device as recited in pending claim 1. [11/19/07 Office Action, p. 4-6].

The Office Action contends that Noriyuki's control section 20 serves in the same capacity as Applicant's determination device by determining "not to correct the exposure error in a case that at least one of the setting state ..., the operation state ..., and the object brightness state satisfies a predetermined condition, regardless of a magnitude of the exposure error" as recited in pending claim 1. [11/19/07 Office Action, p. 5-6]. In supporting this contention, the Office Action refers to ¶0050 of Noriyuki and contends that Noriyuki discloses a situation wherein "the exposure is assumed correct during an automatic exposure operation and is assumed to have errors during a manual exposure operation." Based on this interpretation, the Office Action contends that Noriyuki determines whether to correct the exposure error on the basis of at least the operation state/setting state irrespective of the magnitude of the presumed error. [11/19/07 Office Action, p. 6-7].

Applicant notes, however, that ¶0050 of Noriyuki discloses that "... it is general for an error to arise with one which participates in exposure control in fact of elements, and to become $AveC \neq K$. The gain alpha for exposure level amendment shows the signal amplification factor for performing level adjustment of exposure level so that it may become with $AveC = K$ in $AveC \neq K$." That is, when the exposure level is being corrected manually, if the exposure error (e.g., the gain alpha) is high enough (as indicated by the signal amplification factor) the exposure level is adjusted to become equal with the correct exposure level ($AveC = K$). Thus, Noriyuki

does, in fact, determine whether to perform exposure correction on the basis of the magnitude of the exposure error and, as such, Noriyuki does not teach an image sensing apparatus which determines not to correct the exposure error regardless of a magnitude of the exposure error as disclosed by Applicant.

Accordingly, Noriyuki fails to teach, disclose or suggest a "determination device which ... determines not to correct the exposure error in a case that at least one of the setting state ..., the operation state ..., and the object brightness state satisfies a predetermined condition, regardless of a magnitude of the exposure error calculated by said exposure correction calculation device" as recited in Applicant's amended claim 1. Applicant submits claim 1 is patentably distinct from Noriyuki for at least this reason. Claim 1 is directed to an image sensing apparatus whereas independent claim 7 discloses an image sensing method and, as such, claim 7 is also asserted to be patentably distinct for at least similar reasons. Since claims 4-5 and 9 depend either directly or indirectly from independent claims 1 and 7, respectively, they are all allowable for at least the same additional independent reasons as set forth for claim 1. Consequently, the Section 102(a) rejection of claims 1, 4-5, 7, and 9 should be withdrawn.

C. Claims 2-3 and 6 are Patentable over Noriyuki in view of the Cited References

Applicant respectfully traverses the rejection of claims 2-3 and 6 under 35 U.S.C. § 103(a) as allegedly being unpatentable for obviousness over Noriyuki in view of Kubo or Numata. For at least similar reasons as stated above and for the secondary references failing to overcome the deficiencies of the primary reference, claims 2-3 and 6 are asserted to be patentably distinct. Accordingly, Applicant respectfully traverses the Section 103 rejection of claims 2-3 and 6 over Noriyuki in view of Kubo or Numata. Applicants respectfully submit that

all of the pending claims are now allowable for the above reasons and early, favorable action in that regard is requested.

Applicant has chosen in the interest of expediting prosecution of this patent application to distinguish the cited documents from the pending claims as set forth above. These statements should not be regarded in any way as admissions that the cited documents are, in fact, prior art. Finally, Applicant has not specifically addressed the rejections of the dependent claims. Applicant respectfully submits that the independent claims from which they depend are in condition for allowance as set forth above. Accordingly, the dependent claims are also in condition for allowance. Applicant, however, reserves the right to address such rejections of the dependent claims in the future as appropriate.

CONCLUSION

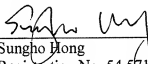
For the above-stated reasons, this application is respectfully asserted to be in condition for allowance. An early and favorable examination on the merits is earnestly solicited. In the event that a telephone conference would facilitate the examination of this application in any way, the Examiner is invited to contact the undersigned at the number provided.

THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY ADDITIONAL FEES WHICH MAY BE REQUIRED FOR THE TIMELY CONSIDERATION OF THIS AMENDMENT UNDER 37 C.F.R. §§ 1.16 AND 1.17, OR CREDIT ANY OVERPAYMENT TO DEPOSIT ACCOUNT NO. 13-4500, ORDER NO. 1232-5172.

Respectfully submitted,
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By: _____


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